



Testimony of Kurt D. Gallinger House Insurance/Bad Faith

Tuesday, July 14, 2009

Madame Chair, thank you for the opportunity to address you and your committee. My name is Kurt Gallinger and I am before you today on behalf of the Michigan Insurance Coalition, where I serve as Chairman. I also serve as Vice President & Counsel for Amerisure Mutual and I served three years in the Michigan Insurance Bureau where I served as First Deputy Commissioner. I truly consider it an honor to provide testimony before your committee, to answer your questions when I can, and to follow-up with answers that require more research.

One of my concerns today is that given the number and complexity of the issues these bills raise, and the elaborate press conferences, press releases and sophisticated website that were unveiled just yesterday – the same day this meeting was noticed – it appears to me that this process may be moving toward a particular predetermined outcome, rather than a dialogue designed to thoroughly vet the issues and these bills. I hope I am wrong about that.

One year and nine months ago - almost to the day - I testified before this committee which was then under the Chairmanship of Representative Virgil Smith. Today's meeting is a vivid reminder of that meeting in 2007 when this committee took only one day to review the package of bills Blue Cross had dubbed "individual market reform." In 2007, Chairman Smith and his committee openly dismissed the industry's concerns based on the misinformation they had relied on to support that doomed package. And, as most of you know, those bills were never enacted despite a very elaborate campaign by the Blues and a long, very drawn-out and uncomfortable legislative process.

I believe part of the problem with the 2007 individual market reform package was that it was designed behind closed doors based on information that was limited and flawed, it received almost no critical review in the first house, support for it was based almost exclusively on political considerations, and the more all of that became apparent, the more legislators had trouble finding grounds to support it. In short, that committee railroaded those bills and it turned into a train wreck. I believe the Michigan legislative process was damaged by the 2007 train wreck and I sincerely hope we can avoid that outcome with these bills.

The twelve bills before this committee today contain numerous provisions ostensibly designed to force recalcitrant insurers to pay legitimate claims, to curb unfair trade practices, to create new private causes of action, to impose new penalties, fines and even prison sentences for evil executives. The problem is that Michigan law already addresses these issues. And to compound that problem, these bills include outrageously large penalties and incentives for vexatious litigation that will drive-up costs for everyone.

The insurance industry may be the most pervasively regulated industry in Michigan, and the voluminous existing insurance statutes and regulations already require insurers to pay legitimate claims – with interest if the company is late. And, existing law also contains an entire chapter of unfair trade practices with penalty provisions imposing fines and penalties - up to and including loss of license or certificate of authority. In addition, the Insurance Code imposes even greater penalties for late payments *and* attorneys' fees for cases involving automobile insurance.

Under existing law, the Commissioner has broad authority to conduct examinations, to hold hearings and to sanction any company that fails to comply with the various claims practices laws and regulations. The Commissioner administers an entire complaint resolution process under which insurers are required to provide written accounts of their actions to be sure they are acting in compliance with the law. Insurers are also required to keep a register of all complaints they receive directly, along with related correspondence with the insured or claimant. This information must by law be retained between examinations by the Commissioner – thereby guaranteeing his opportunity to review company practices and claims dispositions.

Now at this point, I would like to assure the committee that I am proud to be in the insurance industry and my colleagues and I take great pride in providing service to our customers when they have a loss. In fact, our loss control efforts and safety education programs are actually designed to help them avoid losses before they happen. We work hard to do the right thing for our policyholders and by and large, employees across our industry strive to exceed customer expectations because to do anything else would drive our customers to any one of the hundreds of competitors for the same business. And when a loss occurs we can't afford to squander our customer's goodwill – no matter how much a few detractors and special interests are trying to make it seem as though insurance claim denials are spiraling out of control. But, you don't have to take my word for it – look at the data.

The Commissioner publishes an annual report that contains complaint and claims handling data. The Commissioner reports the number of Claim Handling Complaints and Total Complaints. Looking at those categories for 2002 – 2008, both Claim Handling Complaints and Total Complaints have generally trended down. Total Complaints dropped more than 20% from almost 3900 in 2002 to just over 3000 in 2009. But Claim Handling Complaints dropped more than 35% from approximately 2400 in 2002 to approximately 1500 in 2008. During that same period, insurers in Michigan paid approximately \$9billion in claims *each* of those years. Those numbers dwarf the amounts involved in the few exceptions you have heard about and those trends contradict any suggestion that there is a growing problem that needs to be addressed with legislation. And while every legitimate claim is important and deserves to be handled properly, this data helps put things into some perspective.

Please take the time to meet with the industry and discuss these bills in order to consider the potential harm the bills could bring by driving up costs and threatening jobs. Take the time to ask whether opening up a floodgate of frivolous lawsuits, increasing costs for consumers and exacerbating an environment that has become openly hostile to one of the few growth sectors in Michigan's economy is good public policy. At a time when Michigan residents are trying to weather a severe economic storm, doing anything else is inexcusable.

The Michigan Insurance Coalition urges this committee to slow down the train and avoid another train wreck..

